

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NOS.1551/2002, 1537/2002, 1540/2002
1541/2002, 1543/2002, 1546/2002, 1547/2002
1548/2002, 1549/2002, 1550/2002, 1554/2002

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Office Notes, Office Memoranda of : Court's or Judge's orders.
coram, appearances, Court's orders :
or directions and Registrar's :
orders. :
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Mr.N.P.Deshpande AGP for the petitioners

Mr.N.V.Bandiwadekar with Mr.P.R.
Arjunwadkar for respondents in WP.
Nos.1551/02, 1543/02, 1546/02, 1548/02.

Mr.N.V.Bandiwadekar for the respondents
in WP.Nos.1537/02, 1540/02, 1541/02,
1550/02 and 1554/02.

Mr.R.S.Ketkar for respondents in
WP.Nos.1547/02.

Ms.Poonam Mahajan with
Mr.N.V.Bandiwadekar for respondents in
WP Nos.1549/02.

**CORAM: V.G.PALSHIKAR &
D.B.BHOSALE, JJ.**

DATED: 8TH SEPTEMBER, 2005.

P.C.:

. By these petitions, the
petitioners - State of Maharashtra have
challenged the order passed by the
Maharashtra Administrative Tribunal
allowing the original applications of
the employees of the police department
holding that the enquiry cannot be
conducted by the officers belonging to
the police department itself. The

tribunal did not while recording the said finding considered the applications on merits of the case pertaining to particular charges levelled against departmental candidates. The question is as to whether such enquiry is to be conducted or not as considered in judgment in case of State of Maharashtra and Anr. V. Dilip Anant Surve 2005(3) Mh.L.J.1998. It has been clearly laid down by this court that exercise of power under Articles 162 and 309 is distinct and for the purpose of making rules under Article 309 power under Article 162 is to be exercised. It was, therefore, held that the power to hold departmental enquiry flows from the power to take disciplinary action. That being the position the Maharashtra Administrative Tribunal was obviously wrong in allowing all the applications and setting aside the departmental enquiry as a result all these writ petitions have to be allowed and orders impugned therein are to be set aside and the matters are remanded for the decision on merit in each case. Atleast

three years have passed since these orders have been made. As a result of the order passed by the tribunal the employees concerned were reinstated, some of them have retired and some still continue. The impugned order in each of the petitions is set aside. The original application in each petitions is remitted back to Maharashtra Administrative Tribunal for adjudication in accordance with law. In each matter status quo as of today should be continued for a period of eight weeks from today and each original applicant should be at liberty to make interim application for continuance or grant of interim relief as may be in each individual case. The tribunal shall decide the matter as early as possible and preferrably within six months from the date of receipt of this order. The petitions are disposed of accordingly.

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